

DEC 16 2005

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICARDO ALUMA-LOPEZ,)	
)	No. 03-74243
Petitioner,)	
)	Agency No. A72-338-056
v.)	
)	MEMORANDUM*
ALBERTO R. GONZALES,)	
Attorney General,)	
)	
Respondent.)	
_____)	

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted December 6, 2005
Pasadena, California

Before: RYMER and WARDLAW, Circuit Judges, and REED,** Senior District
Judge.

Ricardo Aluma-Lopez, a native and citizen of Colombia, petitions for review
of the Board of Immigration Appeals' denial of his application for asylum and

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The Honorable Edward C. Reed, Jr., Senior United States District
Judge for the District of Nevada, sitting by designation.

withholding of removal. We remand to the BIA.

Aluma's asylum application was filed after the one-year deadline imposed by 8 U.S.C. § 1158(a)(2)(B). However, it is not clear that either the IJ or the BIA made a finding on timeliness, and the government does not press the timeliness issue. Given this, we assume that the BIA decision was based on the merits, which is a reviewable ground. *See Lanza v. Ashcroft*, 389 F.3d 917, 924 (9th Cir. 2004).

Neither the IJ nor the BIA addressed whether Aluma, a drug informant for the United States government against a Colombian drug cartel, would suffer persecution on account of an imputed political opinion. The intersection of the United States's policy toward Colombian drug dealing and imputed political opinions is an unsettled area of immigration law. Thus, we see benefit in having the BIA address in the first instance whether persecution of an informant in this context is on account of an imputed political opinion for purposes of 8 U.S.C. § 1101(a)(42)(A).

REMANDED.